

ESSEX COUNTYWIDE TRAVELLER UNIT

Options Paper

Providing a service to Private landowners to repossess land.



Introduction

The current service to partners was designed to bring consistency, continuity and a firm but fair approach to the management of Unauthorised Encampments on their land in Essex, which is primarily Local Authority land. This can mean that the consistency and continuity can and probably is lost when groups camp on private land and non-partner land.

It can be difficult and intimidating for a private land owner to manage encampments and complete the required actions to repossess their land, as well as having sufficient resource and knowledge of the legal process to complete this in a cost effective way.

The potential offer

ECTU has extensive and specialist knowledge and experience of the Gypsy /Traveller community and the groups moving through the county at any one time, and of the legal process and the ability to enforce court orders.

Demand and expectation

Land owners will come in all shapes and sizes, from individuals with a small holding, to corporate bodies with significant resource/financial backing. Demand for a service is equally likely to cover a range of expectation on outcomes.

A key factor for consideration in any service offer is that we will still be managing any encampments as a local authority – hence the requirements to follow a formal and robust process including welfare checks will remain.

Private land owners do not have to consider welfare etc hence have the option to appoint a bailiff who can take immediate eviction action under common law which does not require redress to the courts (not available for LA's as above). In addition to costs, there are potential issues/pit falls in a land owner adopting this route.

The “force field analysis” below shows the potential of opposing factors/expectations

Benefits/Client expectations		Potential issues/challenges
ECTU's officers have significant experience of the community and processes to repossess land	➔	We are still a public authority, hence would need to follow the same processes as we would on public land.
Landowner would require a quick repossession	➔	We could only offer the 7 working day targeted turn around through the courts
Landowner would expect immediate response	➔	This may not be possible with the current resourcing without impacting on partner services.
Landowners expectation on payment method:-	➔	Demand/take up unknown, so practicalities of resourcing will need to be defined dependent on preferred package options.
<ul style="list-style-type: none"> • per encampment • annual insurance payment 	➔	Payment option would dictate resourcing – a per encampment charge would necessitate acting as managing agent and sub-contracting, insurance payment would allow permanent resourcing – Size of land owned could dictate annual fees necessary.
What are they prepared to pay?		
A local solicitor has quoted a land owner £7000 to manage a repossession of land	➔	We should be able to offer a more cost effective solution, but that will be dependent on the fee charge model

Service offer breakdown

- Initial site visit to facilitate liaison with Travellers
- Liaison with the Police as the land owners representative – ie meeting the requirement for the land owner to request the Travellers to leave before a section 61 can be applied.
- Negotiated departure where possible, based on knowledge of/relationship with the Traveller group camping – 2 to 3 site visits.
- Take repossession action through Section 77/8 of the Criminal Justice and Public Order Act 1994 or part 55 of the civil procedure rules. Draft and serve all papers attend court and serve order, including full legal support – 4 to 5 visits
- Organise bailiffs if required – facilitation/management

Risks to take-up of the offer

Time frame - As introduced above, private landowners are not bound by the same requirement for welfare considerations, alternative provision etc that we as local authorities are. They can therefore, if they choose, go straight to a private bailiff who can act using common law, which can be a very rapid process – same/next day. There are inherent dangers in this approach, as there are no considerations for children, families, welfare, health education etc, and if there is a breach of the peace resulting from the action, the Police can just as easily arrest the Bailiff, as there action would be deemed the cause.

We could not be involved in or broker such an action, as it would leave us vulnerable to challenge in not meeting our statutory duties as a local authority, and have a negative effect on our ongoing ability to manage encampments.

Cost/Fees – dependent on the models adopted, we would be expecting an annual fixed charge/insurance, or a per encampment charge. Either option may need to overcome a perceived culture amongst some land owners who have an expectation that the Local Authority should pay for/manage such encampments on their land as a matter of course. I am not aware of this being applied to any other group/issues affecting their land.

Charging/Resource

There are three basic service/charging options available to us:-

1. A single annual payment, as per existing partners which acts as an insurance policy which they can claim on as and when required. The charge would be related to the size of the estate/land holding and associate risk.
2. A per encampment rate which will consist of the ECTU officer hours, Legal/Court Costs and bailiff costs. This is likely to fluctuate dependent on number of caravans/vehicles, court challenge, and bailiff requirement.
3. Base consultancy on the options/action available to them and accompanying the land owner on initial liaison.

1 - Single annual payment/subscription – this figure will be market driven with the associate risk to ECTU/the Joint Committee based on demand on resource. It will be an optimum figure on what the landowner is prepared to pay as an insurance, against the number of land owners joining, and the risk of encampments/costs exceeding income. Further research will need to be carried out with a select group of landowners to gauge expectation in terms of timeline, and acceptable premium. They will need to accept that the service may, if we have to go the court route take up to 7 working days. We will need to ensure a critical mass, in terms of take up, to make this option viable and sustainable.

2 - Per encampment rate – each encampment will need part or all of the following:-

1. Initial visit by ECTU officers, to assess the site, record details and request them to leave – ECTU officer time / travel
2. Second visit/advice from land owner if complied with – ECTU officer time / travel
3. Submission made to court for repossession of the land – ECTU officer and legal service
4. Issue of court summons, and serving of same – ECTU time / travel and legal
5. Court appearance – ECTU officer and legal
6. Issue court order to reclaim the land – ECTU officer time / travel
7. Check compliance, and if not arrange bailiffs – ECTU officer time / travel
8. Attend with bailiffs to complete – ECTU officer time and Bailiff Recharge.

The costs would therefore run to the point where the encampment is clear, which in an ideal world would be at step 1 – 2, but in a worst case scenario step 8.

3 - Consultancy/initial site visit

To support the land owner with initial liaison, or acting on their behalf to request an encampment to leave, thus enabling a section 61 to be served if appropriate. Charge will need to be made on an hourly rate plus travel.

Resource Considerations

Whichever option is adopted, there is a risk in absorbing it into the existing resource. Dependent on take up, there would be the potential for existing partners to suffer a reduction in service if there are high levels take up from Private Landowners, and a high demand on private land during the peak activity season. We would therefore need to budget for the necessary staffing resource to meet the demand, which may require some initial investment from the Joint Committee

Indicative Costs

Below is an indicative break even cost of a *straight forward*, small encampment, including officer time/mileage back office support/admin. The costs would stop at the point the encampment left, but once we submit to the courts, there will be ECC legal cost to include.

The bailiff cost reflects the standard standby charge for putting them on alert to attend a site. If they have to attend, costs will rise significantly dependent on the number of vehicles required, and whether they have to actually tow/store any vehicles.

Action	Cost
Initial visit by ECTU officers	£100
Second visit	£50
Submission made to court for repossession of the land	£305
Issue of court summons, and serving of same	£50
Court appearance & issue court order to reclaim the land	£50
Check compliance visit	£50
Attend with bailiffs to complete	£230
ECC Legal Costs	£200
Support/Admin	£56
Minimum Charge with Bailiff	£1,091
Minimum Charge without Bailiff	£861

Based on the reported figure quoted by a local solicitor to a private land owner of £7,000, this is extremely competitive.

NB – the quoted minimum charge is to cover costs, hence will need to be inflated by an agreed percentage to include a surplus margin.

Options to proceed

As suggested at a previous meeting, we can include some free guidance on the web site in a “Rough Guide to Managing Unauthorised Encampments for Private Land Owners”. This would cover the basic advice on the available powers/actions, and could, assuming the ECTU offer is implemented, lead into the ECTU service offer to the land owner.

Based on the report, can the Joint Committee indicate a preferred option/s and whether further research is commissioned to set pricing etc to return to the committee with a fully costed proposal.

Steve Andrews
ECTU Manager
18/11/16